

By: **Senator Colburn**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Charging Document - Individuals 75 Years of Age or**
3 **Older**

4 FOR the purpose of adding individuals 75 years of age or older to those categories of
5 persons for which certain procedures concerning statements of charges involve
6 District Court Commissioners and State's Attorneys under certain
7 circumstances; requiring that certain applications be forwarded immediately to
8 the State's Attorney under certain circumstances; requiring the State's Attorney
9 to make a certain investigation and make a certain recommendation under
10 certain circumstances; prohibiting a certain statement of charges from being
11 filed until a certain investigation has taken place; making technical corrections;
12 and generally relating to the filing of a charging document against certain
13 individuals 75 years of age or older.

14 BY repealing and reenacting, with amendments,
15 Article - Courts and Judicial Proceedings
16 Section 2-608
17 Annotated Code of Maryland
18 (2002 Replacement Volume and 2003 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Courts and Judicial Proceedings**

22 2-608.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) "Charging document" means a written accusation alleging that a
25 defendant has committed an offense.

26 (3) "Citation" means a charging document, other than an indictment, an
27 information, or a statement of charges, issued to a defendant by a peace officer or
28 other person authorized by law to do so.

1 (4) "Educator" means a principal, vice-principal, teacher, or teacher's
2 aide at a public or private preschool, elementary, or secondary school.

3 (5) "Emergency services personnel" means:

4 (i) A career firefighter of a county or municipal corporation;

5 (ii) An emergency medical services provider as defined in § 13-516
6 of the Education Article of a county or municipal corporation;

7 (iii) A rescue squad employee of a county or municipal corporation;
8 and

9 (iv) A volunteer firefighter, rescue squad member, or advanced life
10 support unit member of a county or municipal corporation.

11 (6) "Indictment" means a charging document returned by a grand jury
12 and filed in circuit court.

13 (7) "Information" means a charging document filed in court by a State's
14 Attorney.

15 (8) "Offense" means a violation of the criminal laws of the State or any
16 political subdivision of the State.

17 (9) "Statement of charges" means a charging document, other than a
18 citation, filed in District Court by a peace officer, a District Court Judge, or a District
19 Court Commissioner.

20 (10) "Law enforcement officer" means a law enforcement officer as
21 defined in § 3-101 of the Public Safety Article or any federal law enforcement officer
22 who exercises the powers set forth in § 2-104 of the Criminal Procedure Article.

23 (b) An application filed in the District Court [that] SHALL IMMEDIATELY BE
24 FORWARDED TO THE STATE'S ATTORNEY IF THE APPLICATION requests that a
25 statement of charges be filed against:

26 (1) [a] A law enforcement officer, emergency services personnel, or an
27 educator for an offense allegedly committed in the course of executing the duties of
28 the law enforcement officer, emergency services personnel, or educator [shall
29 immediately be forwarded to the State's Attorney]; OR

30 (2) AN INDIVIDUAL 75 YEARS OF AGE OR OLDER.

31 (c) (1) Upon receiving an application filed in District Court requesting that
32 a statement of charges be filed against a law enforcement officer, emergency services
33 personnel, [or] an educator, OR AN INDIVIDUAL 75 YEARS OF AGE OR OLDER, the
34 State's Attorney shall:

35 (i) Investigate the circumstances of the matter; and

1 (ii) Make a recommendation to the District Court Commissioner as
2 to whether a statement of charges should be filed against the law enforcement officer,
3 emergency services personnel, [or] the educator, OR THE INDIVIDUAL 75 YEARS OF
4 AGE OR OLDER.

5 (2) If the State's Attorney recommends to a District Court Commissioner
6 that a statement of charges be filed against a law enforcement officer, emergency
7 services personnel, [or] an educator, OR AN INDIVIDUAL 75 YEARS OF AGE OR OLDER,
8 the State's Attorney shall also make a recommendation as to whether a summons or
9 warrant should issue.

10 (d) Notwithstanding any other provision of the Code or the Maryland Rules[,
11 a]:

12 (1) A statement of charges for an offense allegedly committed in the
13 course of executing the duties of the law enforcement officer, emergency services
14 personnel, or the educator may not be filed against a law enforcement officer,
15 emergency services personnel, or educator until the State's Attorney has investigated
16 the circumstances of the matter and made recommendations to the District Court
17 Commissioner in accordance with subsection (c) of this section; AND

18 (2) A STATEMENT OF CHARGES FOR AN OFFENSE ALLEGEDLY
19 COMMITTED BY AN INDIVIDUAL 75 YEARS OF AGE OR OLDER MAY NOT BE FILED
20 AGAINST THE INDIVIDUAL 75 YEARS OF AGE OR OLDER UNTIL THE STATE'S
21 ATTORNEY HAS INVESTIGATED THE CIRCUMSTANCES OF THE MATTER, WHICH MAY
22 INCLUDE CONSIDERATION OF THE AGE AND HEALTH OF THE INDIVIDUAL, AND
23 MADE RECOMMENDATIONS TO THE DISTRICT COURT COMMISSIONER IN
24 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

25 (e) This section may not be construed to preclude the State's Attorney from
26 making a determination that an information should be filed against a law
27 enforcement officer, emergency services personnel, [or] an educator, OR AN
28 INDIVIDUAL 75 YEARS OF AGE OR OLDER or that a grand jury should be convened to
29 determine whether an indictment should be filed.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2004.